



**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

**Docket Number USCG-2018-1078**

**RIN 1625-AA00**

**Safety Zone; Marina Del Rey Fireworks Event; Marina Del Rey, California**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

---

**SUMMARY:** The U.S. Coast Guard is establishing a temporary safety zone in Marina Del Rey Harbor around the fireworks launch site located at the south jetty. This temporary safety zone is necessary to provide for the safety of the waterway users by keeping them clear of potentially harmful debris within the fall out zone during the fireworks displays scheduled to take place within Marina Del Rey harbor on December 31, 2018 and January 1, 2019. Entry of persons or vessels into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP), Los Angeles - Long Beach, or her designated representative.

**DATES:** This rule is effective from 12:01 a.m. on December 31, 2018, until 1:01 a.m. on January 1, 2019. This rule will be enforced during the duration of the fireworks displays occurring within the effective period, which will be broadcasted via local Broadcast Notice to Mariners.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2018-1078 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email

Waterways Management, U.S. Coast Guard Sector Los Angeles – Long Beach; telephone (310) 521-3860, e-mail D11-SMB-SectorLALB-WWM@uscg.mil.

## **SUPPLEMENTARY INFORMATION:**

### **I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
E.O.	Executive order
FR	<b>Federal Register</b>
LLNR	Light List Number
NPRM	Notice of proposed rulemaking
Pub. L.	Public Law
§	Section
U.S.C.	United States Code

### **II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. § 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. § 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. Publishing an NPRM would be impracticable in this case due to having received initial notice of the event on December 3, 2018.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**, the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable due to the date of the events.

### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under the authority of 33 U.S.C. 1231. The COTP, Los Angeles – Long Beach, has determined that potential hazards associated with navigation safety that arise because the fireworks display creates potential for hazards for any person or vessel within a 500-foot radius of the fireworks launch site. Potential hazards include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. This temporary safety zone is necessary to ensure the safety of, and reduce the risk to, the public, and mariners, in Marina Del Rey harbor.

#### **IV. Discussion of the Rule**

This rule establishes a temporary safety zone from December 31, 2018 to January 1, 2019, encompassing all navigable waters from the surface to the sea floor within a 500-foot radius around the fireworks launch site at the south jetty in approximate position: 33°57.760N 118°27.328W, in the Marina Del Rey harbor for the duration of two fireworks displays, respectively expected to commence at 9:00 p.m. on December 31, 2018 and 12:00 a.m. on January 1, 2019, with each display lasting for approximately 15 minutes. These coordinates are based on North American Datum of 1983.

No vessel or person is permitted to operate in the safety zone without obtaining permission from the Captain of the Port (COTP) or the COTP's designated representative. Sector Los Angeles – Long Beach may be contacted on VHF–FM Channel 16 or (310) 521-3801. The general boating public will be notified prior to the enforcement of the temporary safety zone via Broadcast Notice to Mariners.

#### **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on a number of these statutes and E.O.s, and we discuss First Amendment rights of protestors.

#### A. Regulatory Planning and Review

E.O.s 12866 (“Regulatory Planning and Review”) and 13563 (“Improving Regulation and Regulatory Review”) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits including potential economic, environmental, public health and safety effects, distributive impacts, and equity. E.O.13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (“Reducing Regulation and Controlling Regulatory Costs”), directs agencies to reduce regulation and control regulatory costs and provides that “for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.”

We expect the economic impact of this rule will not rise to the level of necessitating a full Regulatory Evaluation. This safety zone is limited in size, duration and location, which will impact a specific area within the Marina Del Rey harbor. In addition, although this rule restricts access to the waters encompassed by the safety zone, the effect of this rule will not be significant because the local waterway users will be notified via public Local Notice to Mariners to ensure the safety zone will result in minimum impact. The entities most likely to be affected are waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities.

#### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. § 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. § 605(b) that this rule

will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator. Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. § 3501-3520).

#### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under E.O. 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

Also, this rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

#### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. § 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. § 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded from further review under paragraph L60(a) of Section L of the Department of Homeland Security Instruction Manual 023-01-001-01 (series). An environmental analysis checklist supporting this determination and Record of Environmental Consideration (REC) are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

### **List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### **PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS**

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. § 1231; 50 U.S.C. § 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165. T11-903 to read as follows:

#### **§ 165. T11-903 Safety Zone; Marina Del Rey Fireworks Event; Marina Del Rey, California.**

(a) Location. The following area is a safety zone: All navigable waters from the surface to the sea floor within a 500-foot radius around the fireworks launch site at the south jetty in approximate position: 33°57.760N 118°27.328W. These coordinates are based on North American Datum of 1983.

(b) Definitions. For the purposes of this section:

*Designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the COTP in the enforcement of the safety zone.

(c) Regulations. (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or her designated representative.

(2) To seek permission to enter, hail Coast Guard Sector Los Angeles – Long Beach on VHF–FM Channel 16 or call at (310) 521-3801. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or her designated representative.

(d) Enforcement period. This duration of this rule is from 12:01 a.m. on December 31, 2018 through 1:01 a.m. on January 1, 2019 in Marina Del Rey harbor and will be enforced for the duration of two fireworks displays, respectively expected to commence at 9:00 p.m. on December 31, 2018 and 12:00 a.m. on January 1, 2019, with each display lasting for approximately 15 minutes. No vessel or person would be permitted to operate in the safety zone without obtaining permission from the COTP or her designated representative. The safety zone will only be enforced during the specific dates scheduled for fireworks displays during this period. General boating public will be notified prior to the enforcement of the temporary safety zone via Broadcast Notice to Mariners.

Dated: December 19, 2018

M. L. Rochester

Captain, U.S. Coast Guard

Captain of the Port, Los Angeles – Long Beach

[FR Doc. 2018-28355 Filed: 12/28/2018 8:45 am; Publication Date: 12/31/2018]